In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 441

RAYMOND C. WALLACE, PETITIONER

v.

EDWARD J. BRENNER, COMMISSIONER OF PATENTS

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

Petitioner seeks review of the judgment of the United States Court of Customs and Patent Appeals affirming the denial of petitioner's application for a patent.[1] There is no occasion for further review of the narrow factual question involved.

The process with respect to which petitioner seeks a patent pertains to the coating of copper fittings with a non-metallic material which protects against air-oxidation and which is compatible with solder flux and solder so that the fittings may subsequently be soldered to other tubular members without the necessity of a prior cleaning to remove surface film.

[1] The opinion of the court below has been filed with this Court and is reported at 376 F. 2d 968.

275-192—67

The patent examiner, the Patent Office Board of Appeals, and the court below all held that petitioner's claims should be rejected by reason of the fact that the matters referred to in the patent were made obvious by prior patents.

The relationship of petitioner's purported invention to prior patented processes is demonstrated in detail in the opinion of the court below, and no error in evaluation of the facts or in procedure appears. Petitioner adduces nothing sufficient to overcome the presumption of validity attaching to the Patent Office decision. See *Morgan* v. *Daniels,* 153 U.S. 120, 125. Nor is any question of general importance involved.

CONCLUSION

It is respectfully submitted that the petition for a writ of certiorari should be denied.

RALPH S. SPRITZER,
Acting Solicitor General.

SEPTEMBER 1967.

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